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## OLR Bill Analysis

### SB 879

#### ***AN ACT CONCERNING THE CONFIDENTIALITY OF INFORMATION OBTAINED BY THE ATTORNEY GENERAL DURING THE COURSE OF ANTITRUST INVESTIGATIONS.***

#### **SUMMARY:**

This bill allows disclosure of confidential material to a person testifying in an antitrust investigation by the attorney general when the attorney general or his designee reasonably:

1. determines its use is necessary to bring out evidence of a suspected antitrust violation and
2. believes the person providing the testimony (a) is an author or recipient of the confidential material or (b) has read it and is aware of its substance.

By law, the attorney general's office can subpoena documents, subpoena people to testify and transcribe their testimony, and issue written interrogatories in an antitrust investigation. Current law prohibits any disclosure of these documents to the public, but allows the attorney general to share them with federal and other states' officials. Under the bill, confidential material refers to (1) original or copies of documents, responses to interrogatories, or written transcripts of oral testimony, or (2) other information produced after a demand or furnished voluntarily.

The bill prohibits the person providing testimony from keeping any of the confidential material.

The bill's authorized use of confidential material does not apply to investigations of proposed mergers or acquisitions.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND*****Related Case***

In 2010, the Connecticut Supreme Court ruled that the statutes bar disclosure of material and information gathered in an antitrust investigation to anyone outside the attorney general's office, with the exception of federal and other states' officials. The court stated that the material cannot be disclosed in connection with taking oral testimony as part of the antitrust investigation.

Regarding disclosure to federal or other states' officials, the court stated that the attorney general must obtain an agreement that the other officials will abide by Connecticut's statutory confidentiality provisions.

The court also stated that when materials are filed or entered into evidence in a court proceeding, the statutory confidentiality provisions must be balanced against the presumption that documents submitted in court related to an adjudication are publicly available. The court stated that court rules allow the party who provided the documents to seek to seal them or limit their disclosure, and the trial court must then determine whether (1) they involve trade secrets or sensitive information and (2) the need for confidentiality outweighs the public's interest in viewing them (*Brown and Brown, Inc. v. Blumenthal*, 297 Conn. 710 (2010)).

**COMMITTEE ACTION**

General Law Committee

Joint Favorable

Yea    18    Nay   0    (03/12/2013)